

# Congress of the United States

Washington, DC 20515

January 27, 2020

The Honorable Frank Pallone, Jr.  
Chairman  
Committee on Energy and Commerce  
2125 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Richard Neal  
Chairman  
Committee on Ways and Means  
1102 Longworth House Office Building  
Washington, D.C. 20515

Dear Chairman Pallone and Chairman Neal:

The cost of prescription drugs continues to be an issue of the utmost importance to the American people. Despite recent progress made to increase access to generic drugs and encourage more competition, prices continue to rise. Americans need Congress to deliver a bipartisan solution that lowers the price of prescription drugs.<sup>1</sup> House Republicans remain committed to working with the Majority to get a bill signed into law this year.

The House spent the last three months considering Speaker Pelosi's H.R. 3, the *Elijah E. Cummings Lower Drug Costs Act*, a bill we continue to oppose and has no chance of becoming law. Senate Leadership has declared H.R. 3 "dead on arrival,"<sup>2</sup> and President Trump said he would veto it should it come to his desk.<sup>3</sup> The Congressional Budget Office (CBO) found that H.R. 3 could result in up to 8 fewer drugs brought to market over the next 10 years and 30 fewer drugs in the subsequent decade.<sup>4</sup> Other studies have shown that H.R. 3 could result in up to 100 fewer drugs over the next decade<sup>5</sup> as well as result in an 88% reduction in new drugs manufactured by small biopharmaceutical firms in California.<sup>6</sup> While H.R. 3 will not become law, H.R. 19, the *Lower Costs, More Cures Act*, includes bipartisan provisions that can become law.

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<sup>1</sup> Food and Drug Administration, *Statement on Continued Progress Enhancing Patient Access to High-Quality, Low-Cost Generic Drugs*, (October 16, 2019), available at: <https://www.fda.gov/news-events/press-announcements/statement-continued-progress-enhancing-patient-access-high-quality-low-cost-generic-drugs>.

<sup>2</sup> See Burgess Everett, *McConnell warns Pelosi's drug-pricing plan is DOA*, POLITICO, September 19, 2019, available at: <https://www.politico.com/story/2019/09/19/mcconnell-pelosi-prescription-plan-1504496>.

<sup>3</sup> Office of Management and Budget, *Statement of Administration Policy: H.R. 3 – The Elijah E. Cummings Lower Drug Costs Now Act* (December 10, 2019), available at: [https://www.whitehouse.gov/wp-content/uploads/2019/12/SAP\\_HR-3.pdf](https://www.whitehouse.gov/wp-content/uploads/2019/12/SAP_HR-3.pdf).

<sup>4</sup> Congressional Budget Office, *Budgetary Effects of H.R. 3, the Elijah E. Cummings Lower Drug Costs Now Act* (December 10, 2019), available at: [https://www.cbo.gov/system/files/2019-12/hr3\\_complete.pdf](https://www.cbo.gov/system/files/2019-12/hr3_complete.pdf).

<sup>5</sup> Council of Economic Advisers, *House Drug Pricing Bill Could Keep 100 Lifesaving Drugs from American Patients* (December 3, 2019), available at: <https://www.whitehouse.gov/articles/house-drug-pricing-bill-keep-100-lifesaving-drugs-american-patients/>.

<sup>6</sup> California Life Sciences Association, *New Data: Foreign Reference Pricing Proposal in H.R. 3 Would Slash Life-Saving R&D and Lead to Destruction of California's Life Sciences Sector* (October 31, 2019), available at: <https://califesciences.org/new-data-foreign-reference-pricing-proposal-in-h-r-3-would-slash-life-saving-rd-and-lead-to-destruction-of-californias-life-sciences-sector/>.

law, H.R. 19, the *Lower Costs, More Cures Act*, includes bipartisan provisions that can become law.

We highlight specifically the ability to come to a bipartisan, bicameral agreement on redesigning the benefit structure of Medicare Part D. Both H.R. 3 and H.R. 19, as well as S. 2543, the *Prescription Drug Pricing Reduction Act*, and S. 3129, the *Lower Costs, More Cures Act*, in the Senate contain policies that would make the most significant changes to Medicare Part D since it was first created in 2003. President Trump has also voiced support for making changes to the Part D benefit structure in his fiscal year 2020 budget.<sup>7</sup> Medicare Part D continues to be enormously successful in delivering affordable, high quality treatments for seniors— at a cost to taxpayers nearly 50 percent under budget<sup>8</sup>— and we should work to modernize it to work even better for seniors.

Here's where we agree:

- Creating an out-of-pocket cap for seniors once they reach the catastrophic phase.
- Enabling seniors who hit the cap to divide the financial burden over the course of the plan year instead of absorbing the full cost in the first quarter, further easing financial challenges for seniors.
- Reversing the perverse incentives in the current design by lowering the government's financial liability and giving insurers and manufacturers a greater incentive to manage costs.

Last May, our committees made progress in negotiating an agreement to modernize the benefit and to deliver essential savings to seniors, but negotiations stopped once H.R. 3 was introduced. Now that we know H.R. 3 is going nowhere, Americans need us to return to the negotiation table to deliver on this promise to our seniors this year. It's time for us to work together to provide real relief to seniors.

Sincerely,



Greg Walden  
Republican Leader  
Committee on Energy and Commerce



Kevin Brady  
Republican Leader  
Committee on Ways and Means

<sup>7</sup> Office of Management and Budget, *A Budget for a Better America* (March 11, 2019), available at: <https://www.whitehouse.gov/wp-content/uploads/2019/03/budget-fy2020.pdf>.

<sup>8</sup> See Douglas Holtz-Eakin and Robert Book, *Competition and the Medicare Part D Program*, AMERICAN ACTION FORUM, September 11, 2013, available at: <https://www.americanactionforum.org/research/competition-and-the-medicare-part-d-program/>